

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

EVERTON BROWNIE,

Plaintiff,

V.

MERRITT HOSPITALITY, LLC
d/b/a HEI HOTELS & RESORTS

Defendant.

[illegible]

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Doc. No. 357-12-18 BNCV
Vermont Superior Court

Case No. 2:19-cv-36

NOTICE OF REMOVAL

To: United States District Court for the District of Vermont

Vermont Superior Court -- Bennington

Stefan Ricci
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Windsor, VT 05089
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PLEASE TAKE NOTICE that Defendant MERRITT HOSPITALITY, LLC (hereinafter “Merritt”), by its counsel, and pursuant to 28 U.S.C. §§ 1332 and 1441, files this Notice of Removal with respect to the case entitled Everton Brownie v. Merritt Hospitality, LLC, Docket No. 357-12-18, from the Superior Court of Vermont, Civil Division, Bennington Unit. The grounds for this removal are as follows:

1. On or about December 27, 2018, Plaintiff Everton Brownie (“Brownie” or “Plaintiff”) filed a Complaint (the “Complaint”) with the Clerk of the Superior Court of Vermont, Civil Division, Bennington Unit, alleging: (1) National Origin Discrimination under Vermont’s Fair Employment Practices Act; and (2) Race Discrimination under Vermont’s Fair

Employment Practices Act against Merritt Hospitality, LLC and two other defendants, CWI Manchester Hotel LLC and HEI Equinox, LLC. A copy of the Complaint and all other filings in the state court action are attached as Exhibit A.

2. The parties subsequently stipulated to the voluntary dismissal of CWI Manchester Hotel LLC and HEI Equinox, LLC, neither of which employed Plaintiff during the relevant period of time. *See* Ex. A.

3. This Court has subject matter jurisdiction over the Complaint because of diversity of citizenship pursuant to 28 U.S.C. § 1332.

4. Diversity jurisdiction exists in this matter, in that:

(a) According to the Complaint, Brownie is a citizen of the State of Vermont (Compl. ¶ 1);

(b) Merritt Hospitality, LLC is a limited liability company organized under the laws of Delaware and maintaining its principal place of business in the State of Connecticut. The individual members of Merritt include HEI Hospitality, LLC (99.9% ownership) and Gary Mendell (citizen of the state of Connecticut). The individual members of HEI Hospitality, LLC include The Gary M. Mendell Revocable Trust (organized under the laws of the State of Connecticut), The Stephen Mendell Revocable Trust (organized under the laws of the State of Connecticut), and Stephen Rushmore (citizen of the state of Florida). None of Defendant's members are citizens of Vermont. *See* Declaration of Jean Schmier attached as Exhibit B.

5. Additionally, the amount in controversy herein exceeds \$75,000.00, exclusive of interest and costs. 28 U.S.C. § 1332(a). That is because Plaintiff seeks backpay, compensatory

damages, punitive damages, as well as attorney's fees, which upon good faith belief, will readily exceed \$75,000.00, exclusive of interest and costs, if Plaintiff were to prevail at trial.

6. Because Plaintiff and Defendant are citizens of different states and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 and this case is removable to this Court pursuant to 28 U.S.C. §§ 1441 and 1446(b).

7. By filing this Notice of Removal, Defendant does not waive any defenses available at law, in equity or otherwise.

WHEREFORE, Defendant respectfully requests that the above-referenced civil action proceed in the United States District Court for the District of Vermont as an action properly removed thereto under 28 U.S.C. § 1332 and 1441.

February 27, 2019

Respectfully submitted,

MERRITT HOSPITALITY, LLC



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Counsel for Defendant Merritt Hospitality, LLC

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing Notice of Removal, was served by U.S. Mail, postage prepaid, this 27th day of February, 2019 upon:

Stefan Ricci
Ricci Law, PLC
85 Main Street
Windsor, VT 05089
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I also certify that I have caused a copy of this Notice of Removal to be filed with the Clerk of the Superior Court of Vermont in accordance with 28 U.S.C. § 1446(d) and have filed herewith all process, pleadings, and orders served upon or by Defendant pursuant to 28 U.S.C. § 1446(a).


J. Patrick Kennedy